IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 66 OF 2005

Gujar Husen Mulani. ... Appellant.
Versus.
Maktum Husen Mulani. ... Respondent.

Shri Ambar Joshi for the Appellant.

CORAM : ABHAY S. OKA, J.

DATED : 2nd February, 2005.

P.C.:

1. Heard learned Counsel for the Appellant. The Appellant/Original Defendant No.1 claims that the suit property has been jointly purchased by him along with the original Plaintiffs Nos.1 and 2. The Appellant Court after noting that parties being Muslim the concept of joint family property not being applicable found that it was not the case of the Appellant that he has contributed any amount towards purchase price. The Appellant did not plead in his written statement that any contribution was made by him towards purchase price at the time of the acquisition of the property. Even in the affidavit of evidence at Exh.31 such case was not made out by the Appellant and an attempt was made to make out such a case for the first time in the cross-examination.

2. In the absence of any case being made out by the Appellant regarding contribution by the Appellant at the

time of acquisition of property, the Appellant Court has rightly discarded the case of the Appellant that the property was a jointly acquired property.

3. No perversity is shown in the findings recorded by the Appellate Court. No substantial question of law arises. The Second Appeal is dismissed with no order as to costs.

Judge.